

### REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1-40. Claims 1-40 stand rejected. Claims 1- 5, 9, 10, 16, 25 and 33 have been amended herein. No new matter has been added. Support for the amendments can be found in the instant specification at least at page 20, line 39, through page 21, line 5; page 22, lines 2-6; and page 25, lines 25-40.

### REQUEST FOR CLARIFICATION

Applicants respectfully note that on page 16 of the instant Office Action, it is asserted that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rimhagen in view of Apostolopoulos. However, the discussion of the rejection of Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 on pages 17-21 of the instant Office Action also refers to Nakamichi et al. (referred to hereinafter as “Nakamichi”). For purposes of the instant Response, Applicants assume that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable under Rimhagen in view of Apostolopoulos, further in view of Nakamichi, since arguments presented in the Office Action refer to Nakamichi.

Applicants respectfully request correction, if necessary, in future Office Actions to correctly state the grounds of rejection.

### CLAIM REJECTIONS – 35 U.S.C. §103(a)

#### Claims 1-3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40

The instant Office Action states that Claims 1- 3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,594,245 by Rimhagen et al. (referred to hereinafter as “Rimhagen”) in view of U.S. Patent Application Publication No. 2003/0009576 by Apostolopoulos et al. (referred to hereinafter as “Apostolopoulos”). Applicants have reviewed Rimhagen and Apostolopoulos and respectfully submits that the embodiments of the present invention as recited in Claims 1- 3, 6, 7, 9-12,

15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40 are patentable over Rimhagen in view of Apostolopoulos for at least the following rationale.

Applicants respectfully assert that the combination of Rimhagen and Apostolopoulos does not teach, describe or suggest the invention as claimed because the combination of the Rimhagen and Apostolopoulos does not satisfy the requirements of a *prima facie* case of obviousness.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Applicant respectfully directs the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A method for delivering data, in a wireless system comprising a distributed infrastructure of access points, said method comprising:

identifying a plurality of access points to be used cooperatively in combination with each other for the transmission of said data to a receiver, wherein said cooperative usage of said plurality of access points is maintained for at least some portion of a data transmission period;

enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of

said data transmission period, wherein data packets of said data comprise timestamps; and

determining, during the transmission, performance of at least one of said access points being used for the transmission to enable transmitting at least a portion of said data through a different access point while the transmission is in progress, wherein said performance is based at least on examination of said timestamps.

Independent Claims 10, 16, 25 and 33 include similar recitations. Claims 2, 3, 6, 7, and 9 that depend from independent Claim 1, Claims 11, 12 and 15 that depend from independent Claim 10, Claims 17, 18 and 20 that depend from Claim 16, Claims 26, 29, 30, and 32 that depend from independent Claim 25, and Claims 34, 37, 38, and 40 that depend from Claim 33 also include these recitations.

Applicants respectfully submit that Rimhagen in view of Apostolopoulos does not teach or suggest, “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps” and “determining, during the transmission, performance of at least one of said access points being used for the transmission to enable transmitting at least a portion of said data through a different access point while the transmission is in progress, wherein said performance is based at least on examination of said timestamps” (emphasis added) as recited by Claim 1, and similar recitations of Claims 10, 16, 25, and 33.

Applicants understand Rimhagen to teach a method and system for enabling a remote communication station to engage multiple communication stations. In particular, Applicants respectfully submit that Rimhagen is silent to the use of data packets including timestamps. Accordingly, Applicants respectfully submit that Rimhagen does not teach, describe or suggest “wherein data packets of said data comprise timestamps” and wherein said performance is based at least on examination of said timestamps” as claimed.

Moreover, Applicants submit that Apostolopoulos does not overcome shortcomings of Rimhagen. Applicants understand Apostolopoulos to disclose a method of handing off streaming media sessions. More specifically, Apostolopoulos does not teach, describe or suggest “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps” and “determining, during the transmission, performance of at least one of said access points being used for the transmission to enable transmitting at least a portion of said data through a different access point while the transmission is in progress, wherein said performance is based at least on examination of said timestamps” (emphasis added) Applicants respectfully submit that Apostolopoulos is silent to the use of data packets including timestamps. Therefore, independent Claims 1, 10, 16, 25, and 33 are patentable over Rimhagen in view of Apostolopoulos.

Applicants respectfully assert that Rimhagen in view of Apostolopoulos does not teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 10, 16, 25 and 33, that these claims overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance. Therefore, Applicants respectfully submit that Rimhagen in view of Apostolopoulos also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2, 3, 6, 7, and 9 that depend from independent Claim 1, Claims 11, 12, and 15 that depend from independent Claim 10, Claims 17, 18 and 20 that depend from Claim 16, Claims 26, 29, 30, and 32 that depend from independent Claim 25, and Claims 34, 37, 38, and 40 that depend from Claim 33. Therefore, Applicants respectfully submit that Claims 2, 3, 6, 7, 9, 11, 12, 15, 17, 18, 20, 26, 29, 30, 32, 34, 37, 38, and 40 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on allowable base claims.

Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39

The instant Office Action asserts that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rimhagen in view of Apostolopoulos, further in view of Nakamichi. Applicants have reviewed Rimhagen, Apostolopoulos and Nakamichi, and respectfully submits that the embodiments of the present invention as recited in Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 are patentable over Rimhagen in view of Apostolopoulos, further in view of Nakamichi, for at least the following rationale

Claims 4 and 5 are dependent on independent Claim 1; Claims 13 and 14 are dependent on independent Claim 10; Claims 19 and 21-24 are dependent on independent Claim 16; Claims 27, 28, and 31 are dependent on independent Claim 25; and Claims 35, 36, and 39 are dependent on independent Claim 33. Hence, by demonstrating that the combination of references does not show or suggest the embodiments of Claims 1, 10, 16, 25, and 33, it is also demonstrated that the combination of references does not show or suggest the embodiments of Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39.

As presented above, Applicants respectfully submit that the combination of Rimhagen and Apostolopoulos does not show or suggest the embodiments of independent Claims 1, 10, 16, 25, and 33. Applicants further submit that Nakamichi does not overcome the shortcomings of Rimhagen and Apostolopoulos.

Applicants understand Nakamichi to disclose a device and method for collecting traffic information. In particular, Applicants respectfully submit that Nakamichi does not teach, describe or suggest “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps” and “determining, during the transmission, performance of at least one of said access points being used for the transmission to enable transmitting at least a portion of said data through a different access point while the transmission is in

progress, wherein said performance is based at least on examination of said timestamps" (emphasis added) as claimed.

Applicants respectfully submit that Nakamichi is silent to the use of data packets including timestamps. Therefore, independent Claims 1, 10, 16, 25, and 33 are patentable over Rimhagen in view of Apostolopoulos, further in view of Nakamichi.

In view of the combination of Rimhagen in view Apostolopoulos, further in view of Nakamichi not satisfying the requirements of a prima facie case of obviousness, Applicants respectfully submit that independent Claims 1, 10, 16, 25, and 33 overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance. Applicants respectfully submit the combination of Rimhagen in view Apostolopoulos, further in view of Nakamichi also does not teach or suggest the additional claimed features of the present invention as recited in Claims 13 and 14 that depend from independent Claim 1, Claims 19 and 21-24 that depend from independent Claim 16, Claims 27, 28, and 31 that depend from independent Claim 25, and Claims 35, 36, and 39 that depend from independent Claim 33. Therefore, Applicants respectfully submit that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on an allowable base claim.

### CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-40 overcome the rejections of record. For reasons discussed herein, Applicants respectfully request that Claims 1-40 be considered by the Examiner. Therefore, allowance of Claims 1-40 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,  
WAGNER BLECHER LLP

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/John P. Wagner, Jr./  
John P. Wagner Jr.  
Registration No. 35,398

Address:

Westridge Business Park  
123 Westridge Drive  
Watsonville, California 95076 USA  
(408) 377-0500 Voice  
(408) 377-0501 Facsimile

Telephone: